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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/433,761	11/04/1999	JOHN A. RUSHING	UMB-LITES	2970

7590 02/19/2002

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EXAMINER

TON, ANABEL

ART UNIT PAPER NUMBER

2875

DATE MAILED: 02/19/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/433,761

Applicant(s)

RUSHING, JOHN A.

Examiner

Anabel M Ton

Art Unit

2875

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 January 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

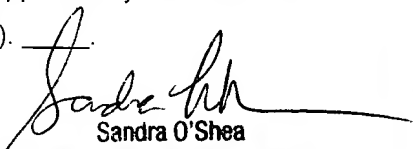
Claim(s) allowed: 10.

Claim(s) objected to: \_\_\_\_\_

Claim(s) rejected: 1-9.

Claim(s) withdrawn from consideration: \_\_\_\_\_

8. ☐ The proposed drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s).
10. ☐ Other: \_\_\_\_\_

  
Sandra O'Shea  
Supervisory Patent Examiner  
Technology Center 2800

Continuation of 5. does NOT place the application in condition for allowance because contrary to applicants comments Adler does disclose spaced apart strings of spaced apart lights, such strings extending from a power cord. As the applicant would surely recognize Adler shows a plurality of decorative illuminated devices formed in the shape of icicles. Each icicle (fig 1) includes a plurality of spaced apart lights such lights being connected in series or in parallel (col. 33-35). Applicant's argument that the lights 18 of Adler are on the power cord 19, not on the strings extending from the power cord 19 are in complete opposition to what is disclosed in Figure 1 of Adler. Applicants citation of 160 USPQ 237 is noted, and applicants attention is directed to lines 6-9 where it reads that an old combination is patentable IF a new problem is solved. In this case, however, applicant is solving not only an old and well known problem, but the proposed solution is also old and well known as evidenced by Lehman et al. Applicants argument that Adler requires his invention to be formed in the shape of an icicle, contrary to the claimed invention, is irrelevant, since the claims in the instant invention are presented in open language which can include additional elements without precluding a rejection based on Prior Art. Applicant is strongly advised to review MPEP 2111.03. Regarding applicant's statement that "only applicant connects lights in series to wires connected in parallel" it is noted that while such features are indeed not clearly disclosed by Adler, it is clearly noted that the claims, as recited by applicant, also fail to include such a structure. In addition, if applicant decides to amend the claims to include a series AND parallel circuit, a rejection under 103 would be issued since one of ordinary skill in the illumination art would have recognized such circuitry not only as old and well known in the art, but also as a standardized feature of decorative light string.